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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

5 KENNETH DUANE AGTUCA, ) Civil No. CV16-1981-RSL  
6 Petitioner, ) Crim. No. CR93-407-RSL  
7 v. )  
8 UNITED STATES OF AMERICA, ) ORDER GRANTING MOTION TO  
9 Respondent. ) DETERMINE PETITIONER'S CLAIM  
AS TO HIS LIFE SENTENCE UNDER  
THE ACCA AND NOT DEFER  
RULING UNTIL THE SUPREME  
COURT DECIDES *SESSIONS V.*  
*DIMAYA*, NO. 15-1498

10 THE COURT has considered Mr. Agtuca's motion to determine his claim as to  
11 his conviction and life sentence under the Armed Career Criminal Act and to not defer  
12 ruling until the Supreme Court decides *Sessions v. Dimaya*, No. 15-1498.

13 IT IS HEREBY ORDERED that motion for relief under 28 U.S.C. § 2255 will  
14 be considered in the normal course, and the Court will not stay or defer ruling on  
15 Petitioner's motion pending a decision in *Sessions v. Dimaya*, No. 15-1498, or  
16 decisions in pending Ninth Circuit cases involving armed bank robbery as a predicate  
17 for conviction under 18 U.S.C. § 924(c).

18 DONE this 7<sup>th</sup> day of August, 2017.

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21 Robert S. Lasnik  
22 United States District Judge

23 Presented by:

24 s/ *Michael Filipovic*  
25 Federal Public Defender  
26 Attorney for Kenneth Duane Agtuca